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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,059	11/02/2001	Daniel J. Piotrowski	US010515	4914

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Corporate Patent Counsel
U.S. Philips Corporation
580 White Plains Road
Tarrytown, NY 10591

[REDACTED] EXAMINER

ST CYR, DANIEL

ART UNIT	PAPER NUMBER
2876	

DATE MAILED: 03/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/003,059	PIOTROWSKI ET AL.	
	Examiner Daniel St.Cyr	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 December 2002.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-10, 12 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-10, 12 and 14-17 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. Receipt is acknowledged of the amendment filed 12/31/02 in which claims 11, 13, and 18 were canceled and claims 1, 10, 12, and 14 were amended.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

- (e) the invention was described in–
 - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
 - (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

3. Claims 1, 12, 14, and 15 are rejected under 35 U.S.C. 102(e) as being anticipated by

Kojima et al, US Pub No. 200/0065680.

Kojima et al disclose a method and system for merchandise retail management and portable terminal comprising: an RFID reader 51 capable of reading information from an RFID tag 29 on a product; a communication unit 33 capable of communicating information to one or more nodes 25/26; and a controller 53, coupled the RFID reader, the communication unit, arranged to receive information from the RFID reader, allow a user to adjust the receive information (to add/ cancel products), send a request, using the adjusted information, to one or more of the service nodes, and display the information response. (see figures 3, 4, 15 and page 8, left col. line 21+).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claim 2-10, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tracy et al, US patent No. 5,979,757, in view of Kojima et al. The teachings of Kojima et al have been discussed above.

Tracy et al disclose a method and system for presenting item information using a portable data terminal, the portable terminal comprising: a label reader 704 for reading information from a label; a communication unit 702 for communicating to one or more service nodes 40, 42, 50; a controller 701, coupled the label reader, the label reader send request to on or more of the service nodes through the communication unit, receive an information response from the service node, and display the information response, wherein the request and the response are formatted as document capable of being exchanged in a distributed decentralized environment (see col. 5, line 25+; figures 1-3).

Re claim 2, wherein the information response includes competitive product information of a product associated with the label (see col. 9).

Re claims 3, 8, 17, wherein the controller is further arranged to allow profile information to be accessed by a service node to engage in a commercial transaction (see col. 9, line 6+).

Re claim 4, wherein the apparatus and the service node communicate in a client/server network (see figure 1).

Re claims 5 and 6, wherein the documents comprise XML document expressed as SOAP messages (see col. 10, lines 33-38).

Re claim 7, the scanner inherently includes a light sensor, serving as context sensor, coupled to the controller.

Re claims 9 and 16, wherein the controller allows a user to complete an on-line transaction (see col. 8, line 19+).

Re claim 10, wherein the controller allows a user to adjust the read information from a label and resending a request to a service node (based on nutritional information or other selection) (see col. 8, line 54+).

Tracy et al teaches that information is downloaded to the portable 100 over wireless network 130, but fail to disclose or fairly suggest using an RFID reader to read information from an RFID tag from a product.

Kojima et al meet such limitation (see above).

In view of Kojima et al's teachings, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to modify the system of Tracy et al by incorporating the well known RFID components (i.e. RFID tags and RFID reader) into the

system of Tracy et al tags to communicate products' information to perform the transactions. Such modification would enhance the system by providing an alternate means for to communication information to execute transactions, which would make the system more practical and more reliable. Therefore, it would have been an obvious extension as taught by Tracy et al.

Response to Arguments

7. Applicant's arguments with respect to claims 1-10, 12, 14-16 have been considered but are moot in view of the new ground(s) of rejection.

Additional Remarks:

In response to the applicant argument that there is no teaching indicating "allow a user to adjust the received information, . . .", the examiner respectfully disagrees. When the products' information is received by the customer, the customer selected the appropriate type and quantity of a selected product. Such selection process is adjusting the information before sending a request. The applicant's argument is not persuasive.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Reynolds et al, US Patent No. 6,318,636, disclose a method and apparatus to read different types of data carriers such REID tags and machine readable symbols, and a user interface for the same.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

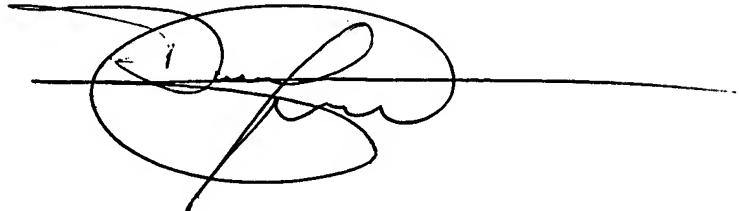
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7721 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St.Cyr
Examiner
Art Unit 2876

DS
February 27, 2003

A handwritten signature in black ink, appearing to read "Daniel St.Cyr", is written over a horizontal line. A small circle containing the letter "i" is positioned near the beginning of the signature.